LAW AND PARLIAMENTARY AFFAIRS SECRETARIAT

Notification No. LAW 77 LCA 75

Bangalore, dated 15th September 1975.

Ordered that the Cigarettes (Regulation of Production Supply and, Distribution) Act, 1975 (49 of 1975) published in Part II Section I of the *Gazette of India* Extraordinary dated 18th September 1975 be republished in the *Karnataka Gazette* for general information.

By Order and in the name of the Governor of Karnataka,

B. NAGESHA RAO,
Under Secretary to Government,
31 *Dept. of Law and Parliamentary Affairs.*

Assented to on 16th August, 1975 Act No. 49 of 1975

THE CIGARETTES (REGULATION OF PRODUCTION, SUPPLY AND DISTRIBUTION) ACT, 1975

AN

ACT

to provide for certain restrictions in relation to trade and commerce in, and production, supply and distribution of, cigarettes and for matters connected therewith or incidental thereto.

Be it enacted by Parliament in the Twenty-sixth Year of the Republic of India as follows :—

1. Short title, extent and commencement—(1) This Act may be called the Cigarettes (Regulation of Production, Supply and Distribution) Act, 1975

(2) It extends to the whole of India.

(3) It shall come into force on such date as the Central Government may, by notification in the Official Gazette, appoint.

2. **Definitions**.—In this Act, unless the context otherwise requires.—

(a) "advertisement" includes any notice, circular and other document and also includes any visible representation made by means of any light, sound, smoke or gas ;

(b) "cigarette" includes.—

(i) any roll of tobacco wrapped in paper or in any other substance not containing tobacco.

(ii) any roll of tobacco wrapped in any substance containing tobacco, which, by reason of its appearance, the type of tobacco used in the filler, or its packaging and labelling is likely to be offered to, or purchased by, consumers as cigarette, but does not include beedi, cheroot and cigar;

(c) "distribution" includes distribution by way of samples, whether free or otherwise;

(d) "export", with its grammatical variations and cognate expressions, means taking out of India to a place outside India;

(e) "foreign language" means a language which is neither an Indian language nor the English language;

(f) "import", with its grammatical variations and cognate expressions, means bringing into India from a place outside India;

(g) "Indian language" means a language specified in the Eighth Schedule to the Constitution, and includes any dialect of such language;

(h) "label" means any written, marked, stamped, printed or graphic matter, affixed to, or appearing upon, any package;

(i) "package" includes a box, carton, tin or other container;

(j) "prescribed" means prescribed by rules made under this Act;

(k) "production", with its grammatical variations and cognate expressions, includes—

(i) packing labelling, relabelling, of containers.

(ii) re-packing from bulk packages to retail packages, and

(iii) the adoption of any other method to render the product marketable;

(l) "sale" with its grammatical variations and cognate expression, means any transfer of property in goods by one person to another, whether for cash or on credit or by way of exchange, and whether wholesale or retail, and includes an agreement for sale, an offer for sale and exposure for sale;

(m) "specified warning" means the following warning, namely, "Cigarette smoking is injurious to health".

3. Restrictions on trade and commerce in, and production, supply and distribution of cigarettes.—( ) No person shall, directly or indirectly, produce, supply or distribute cigarettes unless every package of cigarettes produced, supplied or distributed by him bears thereon, or on its label, the specified warning.

(2) No person shall carry on trade or commerce in cigarettes unless every package of cigarettes distributed sold or supplied by him bears thereon, or on its label, the specified warning.

(3) No person shall import cigarettes for distribution or supply for a valuable consideration or for sale unless every package of cigarettes so imported by him bears thereon, or on its lable, the specified warning.

(4) The specified warning shall appear on not less than one of the largest panels of the package in which cigarettes have been packed for distribution sale or supply for a valuable consideration.

4. Manner in which specified warning shall be made—(1) The specified warning on a package of cigarettes shall be—

(a) legible and prominent;

(b) conspicuous as to size and colour;

(c) in such style or type of lettering as to be boldly and clearly presented in distinct contrast to the other type, lettering or graphic material used on the package or its label and shall be printed, painted or inscribed on the package in a colour which contrasts conspicuously with the background of the package or its label.

(2) Every package containing cigarettes shall be so packed as to ensure that the specified warning appearing thereon, or on its label, is, before the package is opened, visible to the consumer.

5. Restrictions on advertisements of cigarettes.—(1) No person shall advertise for the distribution, sale or supply of cigarettes, and no person shall take part in the publication of any such advertisement, unless the specified warning is included in such advertisement.

(2) Every specified warning included in an advertisement shall be conspicuous, legible and prominent.

(3) No person shall, whether directly or indirectly, import, for the purpose of carrying on any trade or commerce in cigarettes, any document, article or thing, containing any advertisement which violates the provisions contained in sub-section (1) or sub-section (2).

6. Language in which the specified warning shall be expressed.—(1) Where the language used on a package containing cigarettes or on its label or in any advertisement relating to such package is—

(a) English the specified warning shall be expressed in the English language;

(b) any Indian language or languages, the specified warning shall be expressed in such Indian language or languages;

(c) both English and one or more Indian languages, the specified warning shall be expressed in English as well as in such Indian language or languages ;

(d) partly English and partly any Indian language or languages, the specified warning shall be expressed in the English language as well as in such Indian language or languages ;

(e) any foreign language, the specified warning shall be expressed in the English language ;

(f) partly any foreign language and partly English or any Indian language or languages the specified warning shall be expressed in the English language as well as in such Indian language or languages.

(2) No package of cigarettes or its label or any advertisement relating thereto shall contain any matter or statement which is inconsistent with or detracts from the specified warning.

7. Size of letters.—No warning shall be deemed to be in accordance with the provisions of this Act if the height of each letter used in such warning is less than three millimetres.

8. Power of entry and serach.—(1) Any police officer, not below the rank of a sub-inspector, may, if he has any reason to suspect that any provision of this Act has been, or is being, contravened, enter and search, at any reasonable time, any factory, building, business premises or any other place where any trade or commerce in cigarettes is carried on or cigarettes are produced, supplied or distributed.

(2) The provisions of the Code of Criminal Procedure, 1973, (2 of 1974 shall apply to every search and seizure made under this Act.

9. Power to seize—(1) If any police officer, not below the rank of a sub-inspector, has any reason to believe that, in respect of any package of cigarettes, the provisions

of this Act have been, or are being, contravened, he may seize such package.

(2) No package of cigaretes seized under sub-section (1) shall be retained by any police officer for a period exceeding ninety days from the date of the seizure unless the approval of the District Judge, within the local limits of whose jurisdiction such seizure has been made, has been obtained for such retention.

10. Confiscation of packages.—Any package of cigarettes, in respect of which any provision of this Act has been or is being contravened, shall be liable to confiscation.

Provided that, where it is established to the satisfaction of the court adjudging the confiscation that the person in whose possession, power or control any such package of cigarettes is found is not responsible for the contravention of the provisions of this Act, the court may, instead of making an order for the confiscation of such package, make such other order authorised by this Act against the person guilty of the breach of the provisions of this Act as it may think fit.

11. Power to give option to pay costs in lieu of confiscation.—(1) Whenever any confiscation is authorised by this Act, the court adjudging it may, subject to such conditions as may be specified in the order adjudging the confiscation, give to the owner thereof an option to pay, in lieu of confiscation, such costs, not exceeding the value of the package in respect of which confiscation is authorised, as the court thinks fit.

(2) On payment of the costs ordered by the court, the seized packages shall be returned to the person from whom they were seized on condition that such person shall, before making any distribution, sale or supply of such packages, get the specified warning incorporated on each such package or on its label.

12. Liability to penalty.—Any person who carries on any trade or commerce in, or who produces, supplies or distributes, cigarettes, shall, if any package of such cigarettes does not contain the specified warning, be liable to pay a penalty not exceeding five times the value of the package of cigarettes or one thousand rupees, whichever is more, whether or not such package of cigarettes has been confiscated or is available for confiscation.

13. Confiscations or penalty not to interfere with other punishments.—No confiscation made, costs ordered to be paid or penalty imposed under this Act shall prevent the infliction of any punishment to which the person affected thereby is liable under the provisions of this Act or under any other law.

14. Adjudication.—Any confiscation may be adjudged, costs may be ordered to be paid or penalty may be imposed.—

(a) without any limit, by the principal civil court of original jurisdiction within the local limits of whose jurisdiction such confiscation has been made, costs have been ordered to be paid, or penalty has been imposed, as the case may be;

(b) subject to such limits as may be specified by the Central Government in this behalf, by such other court, not below a civil court having pecuniary jurisdiction exceeding rupees five thousand, as the Central Government may, by notification in the Official Gazette, authorise in this behalf.

15. (1) Giving of opportunity to the owner of seized packages—No order adjudging confiscation or directing payment of costs or imposing penalty shall be made unless the owner of the package of cigarettes has been given a notice in writing informing him of the grounds on which it is proposed to confiscate such package, and giving him a reasonable opportunity of making a representation in writ-

ing within such reasonable time as may be specified in the notice against the confiscation or imposition of penalty mentioned therein, and, if he so desires, of being heard in the matter :

Provided that, where no such notice is given within a period of ninety days from the date of the seizure of the package of cigarettes, such package shall be returned, after the expiry of that period, to the person from whose possession it was seized.

(2) Save as otherwise provided in sub-section (1), the provisions of the Code of Civil Procedure, 1908, (5 of 1908) shall as far as may be, apply to every proceeding referred to in sub-section (1)

16. (1) **Appeal.**—Any person, aggrieved by any decision of the court adjudging a confiscation, ordering the payment of costs or imposing a penalty, may perfer an appeal to the court to which an appeal lies from the decision of such court.

(2) The appellate court may, after giving to the appellant an opportunity of being heard, pass such order as it thinks fit confirming, modifying or reversing the decision or order appealed against or may send back the case with such directions as it may think fit for a fresh decision or adjudication, as the case may be, after taking additional evidence, if necessary:

Provided that an order enhancing any penalty or fine in lieu of confiscation or confiscating goods of greater value shall not be made under this section unless the appellant has had an opportunity of making a representation and, if he so desires, of being heard in his defence.

(3) No further appeal shall lie against the order of the court of appeal.

17. **Penalty.**—Any person who,—

(a) sells, or distributes or supplies in the course of any trade or commerce, any package of cigaret-

tes which does not contain, either on the package or on its label, the specified warning,

(b) Produces, or supplies or distributes in the course of any trade or commerce, any package of cigarettes which does not contain, either on the package or on its label, the specified warning,

(c) advertises, or takes part in the advertisement of, cigarettes if such advertisement does not include the specified warning,

shall be punishable with imprisonment for a term which may extend to three years, or with fine which may extend to five thousand rupees. or with both.

18. (1) **Offences by companies.**—Where an offence under this Act has been committed by a company, every person, who, at the time the offence was committed, was in charge of, and was responsible to the company for the conduct of the business of the company. as well as the company, shall be deemed to be guilty of the offence and shall be liable to be proceeded against and punished accordingly :

Provided that nothing contained in this sub-section shall render any such person liable to any punishment, if he proves that the offence was committed without his knowledge. or that he had exercised all due diligence to prevent the commission of such offence.

(2) Notwithstanding anything contained in sub-section (1), where any offence under this Act has been committed by a company and it is proved that the offence has been committed with the consent or connivance of, or is attributable to any neglect on the part of, any director, manager, secretary or other officer of the company, such director, manager, secretary or other officer shall be proceeded against and punished accordingly.

Explanation.—For the purposes of this section,—

(a) "company" means any body corporate and includes a firm or other association of individuals; and

(b) "director", in relation to a firm, means a partner in the firm.

19. Offences to be cognizable and bailable. (1) Notwithstanding anything contained in the Code of Criminal Procedure, 1973, (Act 2 of 1974) an offence punishable under this act shall be bailable.

(2) For the avoidance of doubts, it is hereby declared that every offence punishable under this Act shall be cognizable.

20. Protection of action taken in good faith. No suit, prosecution or other legal proceeding shall lie against the Central Government or any State Government or any officer of the Central Government or any State Government for anything which is in good faith done or intended to be done under this Act.

21. Power to make rules. (1) The Central Government may, by notification in the official Gazette, make rules to carry out the provisions of this Act.

(2) In particular, and without prejudice to the generality of the foregoing power, such rules may provide for all or any of the following matters, namely :—

(a) the manner in which the seizure of any package of cigarettes shall be made and the manner in which seizure list shall be prepared and delivered to the person from whose custody any package of cigarettes has been seized :

(b) procedure for the refund of any penalty imposed under this Act ;

(c) any other matter which is required to be, or may be, prescribed.

(3) Every rule made under this Act shall be laid, as soon as may be after it is made, before each House of Parliament, while it is in session, for a total period of thirty days which may be comprised in one session or in two or more successive sessions, and if, before the expiry

of the session immediately following the session or the successive sessions aforesaid, both Houses agree in making any modification in the rule or both Houses agree that the rule should not be made, the rule shall thereafter have effect only in such modified form or be of no effect, as the case may be: so, however, that any such modification or annulment shall be without prejudice to the validity of anything previously done under that rule.

22. Act not to apply to cigarettes which are exported.—Nothing contained in this Act shall apply to any cigarette or package of cigarettes which is exported:

Provided that nothing in this section shall be deemed to authorise the export of any package of cigarettes, not containing the specified warning to any country if the the law in force in that country requires that the same or similar warning shall be specified on each package of cigarettes.

Explanation.—For the purposes of this section, any cigarette or package of cigarettes shall be deemed to be exported, if the necessary steps for export have already been taken notwithstanding that the actual export has not taken place.